

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

_____ day _____, 20____

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

RESOLUTION DENYING THE APPEAL OF LAS PILITAS RESOURCES, LLC.,
AFFIRMING DECISION OF THE PLANNING COMMISSION, AND DENYING THE
APPLICATION OF LAS PILITAS RESOURCES, LLC, FOR CONDITIONAL USE
PERMIT DRC2009-00025 AND RECLAMATION PLAN

The following resolution is now offered and read:

WHEREAS, on February 5, 2015, following duly noticed and conducted hearings
on December 11, 2014, January 8, 2015, and February 5, 2015, the Planning
Commission of the County of San Luis Obispo duly considered and denied the
application of Las Pilitas Resources, LLC for Conditional Use Permit DRC2009-00025
and Reclamation Plan; and

WHEREAS, Las Pilitas Resources, LLC has appealed the Planning
Commission's decision to the Board of Supervisors of the County of San Luis Obispo
(hereinafter referred to as the Board of Supervisors) pursuant to the applicable
provisions of Title 22 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of
Supervisors on May 12, 2015, and determination and decision made on May 12, 2015;
and

Attachment 1

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

WHEREAS, the Board of Supervisors has duly considered the appeal and finds that the appeal should be denied and the decision of the Planning Commission should be affirmed.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct and valid.
2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibit A attached hereto and incorporated by reference herein as set forth in full.
3. That the appeal filed by Las Pilitas Resources, LLC is hereby denied and the decision of the Planning Commission is affirmed, and that the application of Las Pilitas Resources, LLC for Conditional Use Permit DRC2009-00025 and Reclamation Plan is hereby denied subject to the findings set forth in Exhibit A attached hereto.

Upon motion of Supervisor _____, seconded by Supervisor _____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

Attachment 1

the foregoing resolution is hereby adopted.

Chairperson of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: 
Deputy County Counsel

Dated: April 30, 2015

Attachment 1

STATE OF CALIFORNIA,)
County of San Luis Obispo,) ss.

I, _____, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this day of _____, 20__.

County Clerk and Ex-Officio Clerk of the Board
of Supervisors

(SEAL)

By _____ Deputy Clerk.

Exhibit A -- Findings

1. The proposed project or use is not consistent with the San Luis Obispo County General Plan because:
 - a. The Conservation and Open Space Element (COSE) includes Goal VR-1 and VR-2 which respectively state, “Through the review of proposed development, encourage designs that are compatible with the natural landscape and with recognized historical character, and discourage designs that are clearly out of place within rural areas” and “the natural and historic character and identity of rural areas will be preserved.” The slopes of the proposed mining area and mining equipment would be visible from SR 58 and would be inconsistent with the rural visual character of the area. The project is located in a transition zone between the semi-rural upper Salinas River Valley (the Santa Margarita area) and the rural and steeply sloped oak woodland and chaparral covered hillsides adjacent to the Salinas River corridor which is highly scenic. The project’s excavated slopes associated with the quarry operations would be visible to the public in an area that is predominately characterized by a natural setting including the riparian corridor surrounding the Salinas River. Due to the length of time before restoration would occur, the time for vegetation to mature, and the uncertainty of successful revegetation on the excavated slopes; the project would be visible for over 25 years until planted vegetation associated with the proposed reclamation plan matures and meets the success criteria established in the reclamation plan and the

Attachment 1

SMARA guidelines. Although SR 58 not an officially designated scenic highway, Policy VR 4.1 of the COSE indicates that SR 58 will eventually become a scenic corridor. The significant and unavoidable impacts associated with the proposed quarry and the excavated slopes that will be visible to travelers along SR 58 would not be consistent with the identification of SR 58 for designation as a scenic corridor.

- b. Conservation and Open Space Element (COSE) Goal MN-1 and Policy MN 1.1 require the County to evaluate proposed mining operations in areas having open space, scenic, habitat, recreational, or agricultural value by balancing these values against the need for extracting mineral resources from such areas. While the State of California has recognized the importance of aggregate resources and the need to balance the demand and supply of aggregate materials in the San Luis Obispo – Santa Barbara production consumption region; the Applicant has not demonstrated that the need for the proposed facility would outweigh the visual and environmental impacts of the project including significant and unavoidable impacts to Aesthetics and Visual Resources, Noise, and Transportation and Circulation.
- c. The project would be inconsistent with Noise Element Goals and Policies because sensitive receptors will be subject to the harmful and annoying effects of exposure to excessive noise as result of truck traffic within the community of Santa Margarita and as a result of operation activities and blasting noise and vibration adjacent to the proposed project site;

Attachment 1

including exceedances of the noise standards which represent maximum acceptable noise levels which cannot not be feasibly mitigated to acceptable levels.

- d. Denial of the proposed project does not preclude or set precedence for future mining projects within the EX1 combining designation area. This project was evaluated independently based on the currently proposed project characteristics. Future mine projects in this area will be evaluated based on proposed project characteristics at that time.
2. The proposed project does not satisfy all applicable provisions of Title 22 of the County Code because:
- a. Noise Ordinance – Section 22.10.120 (Noise Standards) cannot be met, which states, “This Section establishes standards for acceptable exterior and interior noise levels and describe how noise shall be measured. These standards are intended to protect persons from excessive noise levels, which are detrimental to the public, health, welfare and safety and contrary to the public interest because they can: interfere with sleep, communication, relaxation and full enjoyment of one’s property; contribute to hearing impairment and a wide range of adverse physiological stress conditions; and adversely affect the value of real property.” The proposed project will result in exceedances of the 60 dBA Ldn standard due to roadway noise generated by the proposed projects truck traffic. The proposed project will result in exceedances of the 50 dBA daytime hourly Leq standard for point source project noise as a result of quarry

Attachment 1

operations. The proposed project will result in exceedances of the 70 dBA standard for Lmax associated with blasting noise associated with quarry operations.

- b. Surface Mining and Reclamation – Section 22.36.040E. cannot be met because the project will result in significant and unavoidable impacts to aesthetic and visual resources which cannot be mitigated. The slopes of the proposed mining area and mining equipment would be visible from SR 58 and would be inconsistent with the rural visual character of the area. The project is located in a transition zone between the semi-rural upper Salinas River Valley (the Santa Margarita area) and the rural and steeply sloped oak woodland and chaparral covered hillsides adjacent to the Salinas River corridor which is highly scenic. The projects excavated slopes associated with the quarry operations would be visible to the public in an area that is predominately characterized by a natural setting including the riparian corridor surrounding the Salinas River. Due to the length of time before restoration would occur, the time for vegetation to mature, and the uncertainty of successful revegetation on the excavated slopes; the project would be visible for over 25 years until planted vegetation associated with the proposed reclamation plan matures and meets the success criteria established in the reclamation plan and the SMARA guidelines. Although SR 58 not an officially designated scenic highway, Policy VR 4.1 of the COSE indicates that SR 58 will eventually become a scenic corridor. The significant and unavoidable impacts

Attachment 1

associated with the proposed quarry and the excavated slopes that will be visible to travelers along SR 58 would not be consistent with the identification of SR 58 for designation as a scenic corridor. Additionally, public concerns have been expressed regarding the safety of the truck traffic which would include approximately 35 peak hour truck trips through the community of Santa Margarita and along the proposed haul routes including the school crossing at the intersection of SR 58 and H Street, conflicts with bicyclist along SR 58, and the pedestrian crossing at El Camino Real and Encina Avenue, and the potential health risks of the project including emissions associated with the truck traffic. As indicated by these concerns, the project is incompatible with the community of Santa Margarita.

3. The establishment and subsequent operation or conduct of the use will be, because of the circumstances and conditions in this particular case, detrimental to the health, safety and / or welfare of the general public and / or persons residing and / or working in the neighborhood of the use, and / or be detrimental and / or injurious to property and / or improvements in the vicinity of the use because:
 - a. Sensitive receptors will be subject to the harmful and annoying effects of exposure to excessive noise as result of truck traffic within the community of Santa Margarita and as a result of operational activities and blasting noise and vibration adjacent to the proposed project site; including exceedances of the noise standards which represent maximum

Attachment 1

acceptable noise levels which cannot not be feasibly mitigated to acceptable levels.

- b. The project would result in land use compatibility conflicts between truck traffic, bicyclists, pedestrians and school children. The project will contribute approximately 35 peak hour truck trips through the community of Santa Margarita, and will contribute towards potential conflicts with pedestrian movements across El Camino Real at Encina Avenue. There is a crest vertical curve on Estrada Avenue (SR 58) south of H Street, which is the location of the Santa Margarita Elementary School crossing. This crest obscures driver views from the south of the school pedestrian crossing. SR 58 also passes directly through the “business district” of the community of Santa Margarita, and within close proximity of the Santa Margarita Elementary School. Children walking to and from school regularly cross SR 58 via a designated crossing at the intersection of SR 58 and H Street. In addition, bicyclists would be required to share SR 58 with the truck traffic generated by the proposed project. There is no dedicated bike lane on SR 58, which leaves little room for bicyclists and truck traffic to share the road which could result in a lessening of their perceived experience cycling on the roadway. This perception could result in a disincentive for bicyclist to use SR 58 during operational hours of the quarry. Each of these concerns reflects an incompatibility with land use with the community of Santa Margarita.

Attachment 1

- c. Public concerns have been expressed regarding the potential health risks of the project including emissions associated with the truck traffic which would include approximately 35 peak hour truck trips through the community of Santa Margarita and along the identified haul routes as a result of the proposed project.
4. The proposed project or use will not be consistent with the character of the immediate neighborhood and the character of the community of Santa Margarita and / or its orderly development because:
- a. The natural and historic character and identity of the rural areas will not be preserved because the excavated slopes of the proposed mining area and mining equipment would be visible from SR 58 and would be inconsistent with the rural visual character of the area. The project is located in a transition zone between the semi-rural upper Salinas River Valley (the Santa Margarita area) and the rural and steeply sloped oak woodland and chaparral covered hillsides adjacent to the Salinas River corridor which is highly scenic. The proposed project's excavated slopes associated with the quarry operations would be visible to the public and numerous residences in the vicinity of the proposed project site that is predominately characterized by a natural setting including the riparian corridor surrounding the Salinas River. Due to the length of time before restoration would occur, the time for vegetation to mature, and the uncertainty of successful revegetation on the excavated slopes; the project would be visible for over 25 years from locations in the vicinity of the proposed

Attachment 1

project site until planted vegetation associated with the proposed reclamation plan matures and meets the success criteria established in the reclamation plan and the SMARA guidelines.

- b. Sensitive receptors will be subject to the harmful and annoying effects of exposure to excessive noise as result of truck traffic within the community of Santa Margarita and as a result of operational activities and blasting noise and vibration adjacent to the proposed project site; including exceedances of the noise standards which represent maximum acceptable noise levels which cannot not be feasibly mitigated to acceptable levels.
 - c. Truck traffic generated from the proposed quarry will pass through the residential neighborhood along Estrada Avenue and through downtown Santa Margarita along SR 58 which would compromise the small town, rural character of this historic community.
5. The proposed project or use may generate traffic conditions beyond the safe capacity of certain roads that provide access to the project because:
- a. The project would result in land use compatibility conflicts between truck traffic, bicyclists, pedestrians and school children. The project will contribute approximately 35 peak hour truck trips through the community of Santa Margarita, and will contribute towards potential conflicts with pedestrian movements across El Camino Real at Encina Avenue. There is a crest vertical curve on Estrada Avenue (SR 58) south of H Street, which is the location of the Santa Margarita Elementary School crossing.

Attachment 1

This crest obscures driver views from the south of the school pedestrian crossing. SR 58 also passes directly through the “business district” of the community of Santa Margarita, and within close proximity of the Santa Margarita Elementary School. Children walking to and from school regularly cross SR 58 via a designated crossing at the intersection of SR 58 and H Street. In addition, bicyclists would be required to share SR 58 with the truck traffic generated by the proposed project. There is no dedicated bike lane on SR 58, which leaves little room for bicyclists and truck traffic to share the road which could result in a lessening of their perceived experience cycling on the roadway. This perception could result in a disincentive for bicyclist to use SR 58 during operational hours of the quarry.

- b. The proposed project would create significant and unavoidable impacts to transportation and circulation due to the lack of certainty regarding Caltrans approval of needed improvements and the uncertainty of timing of the needed improvements which may never be fully realized due to the lack of other contributors and funding. The project would reduce the LOS at various SR 58 intersections within the Community of Santa Margarita. This would result in delays for residents of the community of Santa Margarita and other users of SR 58 and result in increased traffic congestion at the identified intersections. The necessary improvements to SR 58 would require the approval of Caltrans as well as the California Public Utilities Commission (due to the proximity to the railroad crossing)

Attachment 1

at the El Camino Real / Estrada Avenue (SR 58) intersection. It is not known if or when those improvements would be approved by Caltrans and if additional funding would be available to pay for the improvements. Due to this uncertainty, it can be assumed that the improvements may not be implemented.

6. The Environmental Coordinator, after completion of the initial study, found that there is evidence that the project may have a significant effect on the environment, and therefore a Final Environmental Impact Report (FEIR) was prepared (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) for this project. The Final EIR focuses on the following issues: Aesthetics and Visual Resources, Agricultural Resources, Air Quality, Green House Gas Emissions, Biological Resources, Geology, Hazards and Hazardous Materials, Noise, Public Services and Utilities, Recreation, Transportation and Circulation, Wastewater, Water Quality and Supply, and Land Use. The EIR also considers alternatives in addition to the “No Project” alternative. While an EIR has been prepared, per the Public Resources Code 21080(b)(5) and CEQA Guidelines, CEQA does not apply to projects which a public agency rejects or disapproves. However, the FEIR has provided evidence and information to support this denial, including an evaluation of the significant and unavoidable environmental impacts of the proposed project.
7. There are insufficient specific, overriding economic, legal, social, technological, or other benefits of the project that outweigh the significant effects on the

Attachment 1

environment as would be required to approve the project pursuant to Public Resources Code section 21081.

8. The Board of Supervisors considered the importance of the minerals involved with the proposed project to the regional as a whole, as reflected in the State Mining and Geology Board's designation of resources within the County as having regional significance and as reflected in the State Geologist's Special Report 215. Denial of the proposed project would not significantly contribute to shortfalls of concrete grade aggregate as identified in Special Report 215 within the San Luis Obispo/Santa Barbara consumption/production region because the project would not produce concrete grade aggregate and because identified reserves and resources at existing quarries within the San Luis Obispo/Santa Barbara consumption/production regions have the potential to meet demand in the future.